

REMARKS

The present communication is responsive to the Office Action mailed May 2, 2007. In response to the Office Action, claims 1, 2, 5-7, 9, 13, 14, 25, 26, 28-31 and 34 have been amended, and claim 8 has been canceled without prejudice or disclaimer. No new matter has been added.

Election/Restrictions

Applicant acknowledges the Examiner's comments concerning claims 15-24 and expressly reserves the right to pursue these claims in a separate application.

With respect to claim 9, this claim has been amended to address the Examiner's concern with regard to the hollow nature of the protective element. Also, this claim depends from amended claim 1, which is allowable for the reasons discussed below. Therefore, Applicant requests reinstatement and consideration of amended claim 9 in the present application.

Claim Rejections Under 35 USC § 112

Claims 1-8, 10-14 and 25-34 stand rejected under 35 U.S.C. § 112, ¶2, as indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. However, the amendments to the claims as provided above overcome the Examiner's rejection. In particular, the claimed insertion device is used to insert a cannula.

Claim Rejections Under 35 USC § 102

Claims 1-8, 10-14 and 35-34 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent 6,093,172 Funderburk et al. (hereinafter "Funderburk").

However, Funderburk does not disclose or suggest an insertion device in which a protective element for accommodating a cannula is removably connected to a base body, wherein the cannula is expelled from the protective element through an opening in the base body as recited in amended claims 1 and 25. Instead, in Funderburk the cannula is formed as part of the insertion set 14 (see Fig. 4 including the insertion needle 12 and Fig. 16 illustrating removal of the insertion needle from the set). The insertion set 14 is contained in and expelled from the barrel 28 as illustrated, for example, in Figs. 5, 7 and 9 of Funderburk. In Fig. 9, the barrel 28 is positioned "firmly against the patient's skin, with the insertion set 14 supported in the proper

orientation and at a predetermined distance from the skin 16.” Funderburk at col. 8, lines 42-45. The insertion set 14 is then expelled from the barrel as illustrated in Figs. 5 and 7. Upon expulsion, the cannula 26 does not pass through anything other than the patient’s skin. Thus, Funderburk does not disclose the recited base body that is removably coupled to the protective element and having an opening through which the cannula is expelled and, in fact, teaches away from the recitations. Therefore, amended claims 1 and 25 are believed to be patentable over Funderburk.

With respect to amended claim 2, in addition to the features of amended claim 1, this claim recites a holder which is fixedly connected to the cannula, wherein the holder comprises a connecting element that connects with the base body upon expulsion of the cannula from the protective body through the opening in the base body. Funderburk also does not disclose or suggest such a holder. As discussed above, there is no base body in Funderburk. Similarly, there is no holder fixedly attached to the cannula that connects with the base body upon expulsion of the cannula from the protective element as recited in amended claim 2.

Claims 2-7 and 9-13 depend from amended claim 1 and are patentable for at least those reasons set forth above with respect to amended claim 1.

Claim 14 depends from amended claim 2 and is patentable for at least those reasons set forth above with respect to amended claims 1 and 2.

Claims 26-33 depend from amended claim 25 and are patentable over the applied reference for at least those reasons set forth above with respect to amended claim 25.

With respect to amended claim 34, in addition to the features of claim 25, this claim further recites a rotational connection for connecting the protective element to the base body. Funderburk does not disclose or suggest the recited rotational connection. For this additional reason, amended claim 34 is patentable over Funderburk.

CONCLUSION

This response is being submitted on or before November 2, 2007, with the required fee of \$1,050.00 for a three-month extension of time, making this a timely response. It is believe that no additional fees are due in connection with this filing. However, the Commissioner is authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment and notify us of same, to Deposit Account No. 04-1420.

The application now stands in allowable form, and reconsideration and allowance are requested.

Respectfully submitted,

DORSEY & WHITNEY LLP
Customer Number 25763

Date: November 2, 2007

By: 

David E. Bruhn, Reg. No. 36,762
(612) 340-6317